



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First named inventor: John A. Baumann

Docket No. 03-0822

Serial No. 10/698,215

Filed: Oct. 31, 2003

Examiner: Hadi Shakeri

Art Unit: 3727

Title: RECONFIGURABLE CLAMPING SYSTEMS

Confirm. No. 1498

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection mailed 9 June 2011 in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated in the attached sheets.

Respectfully submitted,

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450 Alexandria,
VA 22313-1450

on Sept. 9, 2011.

/Hugh Gortler #33,890/
Hugh P. Gortler
Reg. No. 33,890

Date: Sept. 9, 2011

/Hugh Gortler #33,890/
Hugh P. Gortler
Reg. No. 33,890

REMARKS

Claims 1, 5, 7-10, 13-17, 19 and 21-61 are cancelled.

Claims 2-4, 6, 11-12, 18, 20 and 62-66 are pending.

Claims 4, 6, 11-12, 18, 20 and 68 are withdrawn from consideration.

Claims 2-3 and 62-67 are rejected.

The final office action dated June 9, 2011 indicates that claims 64 and 65 are rejected under 35 USC §102(b) as being anticipated by Sollmann GB 2,169,836. The '102 rejection should be withdrawn because it is based on factual deficiencies.

Base claim 64 recites a system for clamping aircraft skin having a complex surface shape to an aircraft frame. The system comprises:

a crib configured to support the aircraft frame; and

a chain of interspersed coupling units and force applying units, the chain stretching across the surface of the skin, the coupling units allowing the force-applying units to conform to the complex shape of the skin, the force-applying units for pressing the skin against the frame.

Claim 65 recites the system of claim 64, further comprising an aircraft frame supported by the crib; and aircraft skin having a complex surface shape, the aircraft skin pressed against the aircraft frame.

Sollmann doesn't describe a single feature of claim 64 or 65. Sollmann describes a retaining tool for obtaining a strong and tight glue joint between a body plate 1 and a repair piece 2 (Abstract). The retaining tool includes a tubular bar 10 and suction cups 5 at opposite ends of the tubular bar 10. The retaining tool further includes an intermediate bar 15 that is perpendicular to the tubular bar 10 and that has adjusting screws 13 and 19 at opposite ends. The suction cups 5 secure the bar 10 to the body plate 1 as screw 19 is adjusted to press the repair part 2 against the body plate 1. Sollmann is silent about a specific application for the retaining tool.

The final office action admits that Sollmann does not describe aircraft skin or an aircraft frame. Page 3 simply alleges that Sollmann's system is "capable of being applied to an aircraft skin/frame."

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Sollmann does not describe aircraft skin or an aircraft frame. Therefore, the '102 rejection of claim 65 should be withdrawn.

Sollmann does not describe a crib configured to support the aircraft frame. Page 3 of the final office action admits that Sollmann does not show a crib. Sollmann does not describe one either:

Sollmann does not describe a chain of interspersed coupling units and force applying units, let alone a chain that conforms to the complex shape of aircraft skin. Sollmann's bars 10 and 15 are rigid. Sollmann only describes a single device (screw 19) that applies force to the top work piece. Sollmann does not describe a plurality of coupling units interspersed with force applying units. At most, Sollmann shows a single bar 15 that supports a single force-applying screw 19.

Thus, Sollmann does not describe each and every element of base claim 64. Therefore, the '102 rejection of base claim 64 should be withdrawn.

The final office action indicates that claims 64 and 65 are rejected under 35 USC §103(a) as being unpatentable over Sollmann GB 2,169,836. The '103 rejection should be withdrawn because it is based on legal and factual deficiencies.

Sollmann is silent about applying his retaining tool to an aircraft. The final office action admits that Sollmann does not describe aircraft skin or an aircraft frame. The final office action presents no findings that a retaining tool such as Sollmann's can be applied to an aircraft. It provides no evidence of the desirability to form a glue joint between aircraft skin and an aircraft frame.

The final office action provides no articulated reasoning for applying Sollmann's retaining tool to an aircraft. It only asserts claims 64 and 65 are obvious because it "would only require routine experimentation with predictable results" and it would amount to "applying a known technique to a known device ready for improvement to yield predictable results."

These assertions amount to little more than conclusory statements of obviousness. The final office action doesn't articulate the type of experimentation that would be required or why that experimentation would be routine or why the results would be predictable. Moreover, routine experimentation is not an obviousness rationale listed under MPEP 2143. Rather, it is a test for enablement.

MPEP 2143 does list "applying a known technique" as a rationale for obviousness. However, in order to rely on this rationale, MPEP 2143 requires the following findings:

- (1) a finding that the prior art contained a "base" device (method, or product) upon which the claimed invention can be seen as an "improvement"; and
- (2) a finding that the prior art contained a known technique that is applicable to the base device (method, or product); and
- (3) a finding that one of ordinary skill in the art would have recognized that applying the known technique would have yielded predictable results and resulted in an improved system.

The final office action does not make a single one of these findings.

Moreover, the final office action doesn't explain how this rationale applies to Sollmann. Assuming Sollmann's retaining tool is the base device, the final office action doesn't identify the known technique that is applicable to the retaining tool, let alone how the known technique improves Sollmann's retaining tool. The final office action provides no discussion about whether Sollmann's retaining tool can predictably conform to the complex shape of aircraft skin.

Thus, the office action does not comply with KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1395-97 (2007), which holds “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Therefore, the ‘103 rejection of claims 64 and 65 should be withdrawn.

The final office action indicates that base claims 62 and 66 are rejected under 35 USC §102(b) as being anticipated by Sollmann GB 2,169,836. The ‘102 rejection should be withdrawn because it is based on factual deficiencies.

Base claims 62 and 66 both recite a crib for supporting an underlying work piece. Sollmann does not describe a crib configured to support an aircraft frame. Page 3 of the final office action admits that Sollmann does not show a crib. Sollmann does not describe one either. For this reason alone, the ‘102 rejection of base claims 62 and 66 should be withdrawn.

Claim 62 recites a chain of interspersed coupling units and force applying units, the chain extending across the crib, the coupling units allowing the force-applying units to conform to an upper surface of a top work piece. Sollmann does not describe a chain of interspersed coupling units and force applying units, let alone a chain that conforms to the complex shape of aircraft skin (Sollmann’s bars 10 and 15 are rigid). For this additional reason, the ‘102 rejection of base claim 62 should be withdrawn.

Claim 66 recites a chain of lockable coupling units and force applying units, the coupling units interspersed with the force applying units, the chain extending across the crib, the lockable coupling units being unlocked to make the chain flexible and allow the force-applying units to conform to the upper surface of the top work piece, the coupling units being locked to make the chain rigid and allow the force-applying units to press the top work piece against the underlying work piece.

Sollmann does not describe a chain, let alone a chain that can be made flexible so it conforms to the surface of a work piece, and then can be made rigid. Sollmann

describes suction cups 5 and adjusting screws 13/19 that extend from rigid bars 10 and 15. For this additional reason, the '102 rejection of base claim 66 should be withdrawn.

The final office action indicates that claims 2, 62, 63 and 66 are rejected under 35 USC §102(b) as being anticipated by Dearman U.S. Patent No. 4,356,615. The '102 rejection should be withdrawn because it is based on factual deficiencies.

Dearman describes an apparatus for aligning the confronting ends of two pipes. The apparatus includes a chain 8 and screw-type supports 10 attached to the chain 8. The chain wraps around a first pipe. The supports 10 extend transversely of the chain 8 at a distance sufficient to project beyond the first pipe end and over a second pipe (col. 1, line 64 to col. 2, line 6). The supports 10 provide support and alignment for the second pipe.

Dearman does not describe a crib for supporting an underlying workpiece. Moreover, Dearman does not describe a chain extending across a crib. Due to these factual deficiencies, the '102 rejection of base claims 62 and 66 should be withdrawn.

Dearman's link chains, which the final office action characterizes as coupling units, are not lockable. Due to this additional factual deficiency, the '102 rejection of base claim 66 should be withdrawn.

Respectfully submitted,
/Hugh Gortler #33,890/
Hugh P. Gortler
Reg. No. 33,890
(949) 454-0898

Date: Sept. 9, 2011